

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ALVETO RIVERA,

Plaintiff,

v.

ORDER

Civil File No. 12-1479 (MJD/FLN)

IMO KALLA, LUKE DEHAAN,
STANLEY QUANBECK, M.D.,
SARA HARD, SHERYL VEZNER,
REGINA STEPNEY, and JE LIND,

Defendants.

Alveto Rivera, pro se.

Kelly S. Kemp, Assistant Attorney General, Minnesota Attorney General's Office,
Counsel for Defendants Imo Kalla, Sara Hard, and Regina Stepney.

Charles A. Gross and Andrea Pavelka Hoversten, Geraghty, O'Loughlin &
Kenney, P.A., Counsel for Defendants Stanley Quanbeck, M.D. and Luke
DeHaan.

The above-entitled matter comes before the Court upon the Report and
Recommendation of United States Magistrate Judge Franklin L. Noel dated
January 29, 2014. [Docket No. 121] Plaintiff filed objections to the Report and
Recommendation. [Docket No. 122]

Pursuant to statute, the Court has conducted a de novo review upon the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court adopts the Report and Recommendation of United States Magistrate Judge Noel dated January 29, 2014. Section D of the Report and Recommendation sets forth an analysis of Plaintiff's "medical malpractice claims." (See Report and Recommendation, at 14.) In response, Plaintiff argues that he did not assert any medical malpractice claims in his Complaint. The Court concludes that Section D of the Report and Recommendation correctly interprets Plaintiff's allegations that Defendants committed the "tort of negligence under the law of Minnesota" as claims for medical malpractice under Minn. Stat. § 145.682. The Report and Recommendation appropriately analyzes these claims and concludes that they should be dismissed.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. The Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Franklin L. Noel dated January 29, 2014 [Docket No. 121].
2. Defendants Luke DeHaan and Stanley Quanbeck, M.D.'s Motion for Summary Judgment and Statutory Dismissal under Minn. Stat. § 145.682 [Docket No. 75] is **GRANTED**.

3. Defendants Imo Kalla, Sara Hard, and Regina Stepney's Motion for Summary Judgment [Docket No. 89] is **GRANTED**.
4. This case is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 4, 2014

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court